

WHISTLE BLOWING - AN ACT OF HEROISM

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ABSTRACT

Whistleblowing is an act of boldness by an individual, either it may be internal or external. This individual may be an employee or former employee of an organization or an outsider (may be public or media). Whistleblowers basically alert the higher officials or society about endanger in the environment. It is an act of boldness because it brings the corporate malpractice into light. Whistleblowing is considered as favorable in the view of the individual and the society but it is considered unfavorable by the organization as it creates bad reputation about them. Any act has its own consequences, in the same way; whistleblowing has positive and negative effect. Positive response may be, organization can stop the wrongdoing and negative response is organization's retaliation against the whistleblower. This conceptual paper explains about whistleblowing, its types, how does it work in an individual's mind. This paper also talks about whistleblowing in the context of an individual (employee) and organization, the legal framework of whistleblowing in India and some other countries.

KEYWORDS: Whistle Blowing, Information Disclosure, Employee, Organization

INTRODUCTION

Whistle blowing is generally an act of disclosure of information by people within or outside an organization and that which are not accessible to public, generally the activities that are against the public interest (Premalata *et al.*, 2014). It is an act of unveiling information about illegal or unethical activities happening in the organization or environment, thus helping the organization or the society to take a positive step towards reduction of misconducts. The term whistle blowing was coined by Ralph Nader. US civic activist in the early 1970's to avoid the negative connotations found in words such as "informers" and "snitches".

The term whistle-blower comes from; a referee who uses a whistle to indicate an illegal or foul play. But the evolution of this concept started in 13th century in England, Qui tam, to enforce the King's law. Qui tam is a writ of common law that allows for individuals who help in the prosecution of corporations and governments to be awarded the penalties assessed to the guilty party. There are some lists of wrongdoings, so that he/she can blow the whistle when it occurs. These wrongdoings includes stealing of company's funds, accepting bribes, using of official position for personal benefit, employee abuse of office, waste of organizational assets, management's cover-up of poor performance and making false projections of poor performance, violations of law and discriminations based on race, religion, sex (Near *et al.*, 2004).

TYPES OF WHISTLEBLOWING

Major two types of whistleblowing (Poonam *et al.*, 2014) are internal and external whistleblowing. Internal

whistleblowing means when the wrongdoings are reported to the officials at higher position in the organization. Some of the internal whistleblowing activities are disloyalty, improper conduct, indiscipline, insubordination, disobedience, etc. External whistleblowing means when wrongdoings are reported to the people outside the organization like media, public interest groups or enforcement agencies. Some people oppose this external whistleblowing because it opposes on the ground of morality and loyalty on the part of the employee towards his/her organization.

Other types are as follows, when the act of whistleblowing is done by the former employee of the organization is known alumni whistleblowing. When the identity of the whistleblower is revealed it is open whistleblowing and when it is not revealed it is anonymous whistleblowing. When the organizational wrongdoings are to harm one personally, disclosing such wrongdoings is called personal-whistleblowing. Though this is not justified morally, it is desirable only when there is danger to one's freedom or dignity or esteem. When the whistle blowing is to harm others, it is impersonal whistleblowing.

HOW DOES THIS WORK

Generally, great things/ act/ ideas originate from human mind. In the same way the process of blowing the whistle happens. It is a five stage process (Netzwerk 2010).

- Recognition- inside the mind of the whistleblower, he/she recognizes that the event seen is wrong and has risk.
- Assessment – Then he/she assess can I make a difference? And decides whether to 'neglect', 'exit' or 'voice' about wrongdoing. At this stage he assesses about security and investment (should I be the one to say something?), support and connectedness (whom can I rely for help?)
- Action – here he has a choice whether to blow the whistle or not (I won't say anything or I will say something). If he has decided to blow the whistle, then first he has to blow the whistle to the higher officials within the organization.
- Reactions – from the addressee and/or the organization and its members. The reactions may be positive or negative.
- Evaluation – whether the reaction of the act is success or failure.

If the whistleblower is not satisfied with the reaction from the corresponding members, he/she can go back to the step 3 and blow the whistle to the outsiders of the organization if the wrongdoing is very serious.

Theoretical framework (Siddhartha *et al.*, 2010) best explains the process of whistleblowing. Process is based on three theories namely, Theory of Power, Theory of Resource Dependency, Theory of Organizational Justice. Theory of Power (Near *et al.*, 1993) states that, whistle blowing is a process of influence where, the whistleblower tries to use his power of influence to stop the wrongdoing. The organization or its member can accept the action of the whistleblower and stop the wrongdoing or retaliate against the whistleblower to correct the power balance.

Theory of Resource Dependency states that the two parties engaged in the situation of conflict will try to exert their power over each other. Here, the wrongdoer will put his efforts to reduce the dependency of the whistleblower on the organization and vice versa (Near *et al.*, 1993). Theory of Organizational Justice (Greenberg, 1990) deals with the procedural justice and distributive justice with the satisfaction of the system and the outcome of the brave act. Satisfaction will be high with the system when the process of whistleblowing is followed fairly in the organization and satisfaction with the outcome will be high if the organization stops the wrongdoing and did not retaliate unfairly against the whistleblower.

WHISTLE BLOWING IN THE CONTEXT OF AN EMPLOYEE

There are individual and situational antecedents that motivates a person whether to blow the whistle or not (Abhijeet *et al.*, 2009). Individual antecedents are based on the consistent and inconsistent factors. Where the consistent factors are based on the roles and responsibilities of the individual, who generally thinks that whistleblowing is the integral part of his job, boldly blows the whistle (Mesmer and Viswesvaran, 2005). This individual will have high job performance, pay level and highly educated. Inconsistent factors include gender, age and attachment towards his/ her organization. Generally, male blows the whistle more boldly than woman. Here, age is related to power or position of an individual, young top management individual blows the whistle more boldly than aged employees. Other factors like Job satisfaction, organizational commitment and his own personal morality values leads to his attachment to the organization. (Near and Miceli, 1996)

Situational antecedents depend upon characteristics of the job/organization and severity of the wrongdoing. This includes perceived support from top management to blow the whistle without fear and implementing whistleblowing mechanisms in the organization (Dworkin and Baucus, 1998). Organizational culture, climate and structure positively influence an individual to blow the whistle. Individuals are more likely to engage in whistle-blowing in organizations where there are democratic and friendship or team climates (Mesmer *et al.*, 2005). Type and severity of the wrongdoing also decides whether to blow the whistle or not (Near, 1996).

Based on three perspectives (Siddhartha *et al.*, 2010) an individual decides to blow the whistle, first, it is based on altruistic perspective, which means an individual's virtue of unselfish concern for the well-being of others. His desire is to correct the wrongdoing which is harming the interests of the organization itself, consumers, the co-workers and the society at large. Second, is the motivational and psychological perspective, where an individual thinks that whistleblowing may lead to the individual obtaining some benefits in lieu of his whistleblowing (Heyes *et al.*, 2008). Third is the prospective of reward, sometimes the organizations themselves offer reward if any act of stealing by an employee of the organization is exposed.

If the individual has decided to blow the whistle, before that he/she should analyze whether the seen event is serious, persistent wrong and the extent of its harm to the society. How reliable is the information and do I have evidence who is responsible for it? If he/she has answers for the above question, then they should look for the channels to report the wrongdoing within the organization (Poonam *et al.*, 2014).

The response to the act of whistleblowing usually varies from organization and organization and from individual to individual (Paul and Townsend, 1996). Consequences of whistleblowing depends upon the whistleblower's power, organization's climate (Miceli *et al.*, 2009). Once the whistle is blown consequences may be favorable or unfavorable to the whistleblower. Favorable situation may be the organization or an individual correct or stop the wrongdoing. Unfavorable situation may be retaliation against the whistleblower (Siddhartha *et al.*, 2010).

RETALIATION

Most of the employees fear to blow the whistle due to retaliation from the organization. The organization may spotlight the whistleblower, where the employers will try to attack the source, motives, credibility, competence or anything else to create artificial smokescreens so that it seems that the real problem is the whistleblower and not the wrongdoing. Manufacture a poor record about the whistleblower, who previously had good performance. The employer would threaten

the employee with termination of service if the act of wrongdoing is brought to public notice. The employer will try to isolate the whistleblower from his colleagues and work groups and will often assign lower or menial jobs. The employee may be burdened with additional responsibilities and a large amount of unmanageable work. The employee may further be declined access to organizational resources necessary to fulfill his responsibilities. The result is often termination due to reasons of poor work performance. They may also be threatened by the employer for stealing of sensitive information and confidential documents of the organization. The whistleblowers may be laid off or the organization may paralyze their career by not giving them promotion opportunities (Paul *et al.*, 1996).

ORGANIZATIONAL LOYALTY VS WHISTLEBLOWING

Till now, whistleblowing has been seen as an action against the interests of the organization. Over the year it has been said that whistleblowing and organizational loyalty are contradictory in nature and most of them feel that whistleblower is not loyal to the organization. Whistleblower is considered as a hero by the society as he attempts to protect the interests of the society and considered as a traitor or disloyal Employee who act against the interest of their employer and the organization (Hauserman, 1986 and Varelius, 2008). Whether the act of whistleblowing is violating that loyalty or not and to define what constitutes loyalty towards the organization, the term rational loyalty was coined (Street, 1995). Rational loyalty does not comprise of loyalty towards the top management and employees of the organization but towards the mission statement, goals, value statements and code of conduct of the organization which are legal and legitimate. If an individual finds that the actions of an organization are violating from these statements, he can blow the Whistle without fear and employer is also bound to be disloyal if he violates the mission, goals, values and code of conduct of the organization (Commers, 2004).

WHISTLEBLOWING IN THE CONTEXT OF AN ORGANIZATION

First of all, an organization must know why it is important to have whistleblowing policies in their organization. Whistleblowing policies protect companies from whistleblowing claims and associated costs, to meet the expectations of the regulators, to defend against corporate offence of bribery, to set clear standards of behavior for employees, to act as a warning system for the employers/ top management and to encourage internal disclosure of wrongdoing (Freshfields, 2013).

There is no size that fits for all; in the same way implementing of effective whistleblowing mechanism differs from organization to organization. It's all starts with the commitment of the top level management (Willem *et al.*, 2005) to create an environment that nurtures speaking up and reporting wrongdoing. This helps to fight against the unethical behavior in an organization and it must be influenced by the culture of its people. Then the top management has to develop a whistleblowing policy by giving access to the employees about information like which channels to use, anonymity and protection of the whistleblower and complaints. The organization must design reporting programs.

A sound reporting system creates confidence in employees and promotes trust in the integrity and effectiveness of the whistle blower mechanism. People's concerns on conduct of business activities are notified through whistleblowing reporting mechanisms. They act as an organization's risk management safety net. Embedding a program not only involves developing a culture of compliance within an organization but also managing complaints effectively with the support of top management (Willem *et al.*, 2005). Organizations should set up a body or committee to receive periodic reports and analyze whether there is proper communication, confidentiality, remedial action and feedback for the complaints received.

The body or committee should review the report and understand the nature of complaints received, has to decide who has to investigate and further process. Periodic monitoring and evaluation must be done to report and address deficiencies so as to enable the system to function effectively.

During implementation of whistleblowing policy, organizations face certain challenges like lack of support or resistance from the top management/employees, cultural and historical obstacles, employee's suspicion or fear about the consequences of whistleblowing (Willem *et al.*, 2005). Organizations must have preventive actions like consider employee complaints seriously and take action, establish an in-house complaint process, monitor legislative action, educate managers concerning their role and responsive actions to manage the complaints received by investigating claims and respond quickly, punish wrongdoing appropriately, establish supportive organizational culture, etc. (Paul *et al.*, 1996).

In this whole process, various stakeholders play a major role. Managers, other employees and society at large, are considered as the stakeholders. In most of the cases, other employees tend to treat whistleblowers as outcasts and blame the whistleblowers for putting the organization in difficult position, so the whistleblower faces retaliation and sometimes leaves the organization. Organizations should help them and take actions at the right time. From the management point of view the important aspect would be keeping the issue from getting out of control, avoiding criticism from public and preventing image loss. Responding at the right time to issues and encouraging people to bring out problems will help the organization to handle the situation under control. HR department is the neutral department in the organization and play an important role in hearing the voice of the employees. It is the duty of the HR to develop policies and communicate it to the employees and train them to follow it. They should assign accountability officers and provide special telephone numbers and e-mail accounts for blowing the whistle and this would encourage the employees to bring out issues and maintain anonymity.

WHISTLEBLOWING POLICY IN INDIA

In India whistleblowing is in infant stage, in order to eliminate corruption, law commission recommended a law to protect the whistleblowers and submitted a report on "Public Interest Disclosure Bill" in December 2001. As a result of this bill, Supreme Court of India in May 2004, ordered Central Vigilance Commission to receive complaints from whistleblowers till law is enacted. Whistleblowers protection bill was passed in Lok Sabha on 28 December 2011 and by Rajya Sabha on 21 February 2014. The whistleblowers protection bill was enacted as Whistleblowers Protection Act on May, 2014. Highlights of the acts are the protection of whistleblowers in their workplace, Secrecy of whistleblower's identity and if the act is proved it contains provisions for imprisonment up to 3 years and a fine up to Rs.50000. penalization for officials who try to mislead the officials of the CVC, bills also seeks to protect the honest officials, if the act is not proved there is imprisonment up to 2 years and penalty of Rs.30000 (Adithi *et al.*, 2014).

Due to its importance, whistleblowing policies are added to clause 49 and most of the corporates have whistleblowing policies in their organizations. Some of them are Ombuds process policy in Wipro, ethics counselor / chairman of audit committee to handle the whistleblowing issues in Tata motors. In Steel Authorities of India, whistleblowing issues are handled by CVC where there is complete protection for whistleblowers (Premalata *et al.*, 2014).

WHISTLEBLOWING IN OTHER COUNTRIES

Knowing the importance of whistleblowing, most of the countries have made whistleblowing policies legal to protect the whistleblowers. In U.S, whistleblowing policies differ from state and federal level, the most important acts are

False Claims Act (it penalizes those who fraud or is involved in any malpractice in any of the governmental programs.) and The Sarbanes-Oxley Act, 2002, to protect the whistleblowers who bring to light corporate frauds.

In UK, Public Interest Disclosure Act (PIDA) 1998 was enforced to protect the employees from unfair and detrimental treatment of employers. But there is no specific legislation for the protection of whistleblowers in China; banking and insurance companies have their own internal whistleblowing system. Protection and rewards are given by the organization itself. In South Africa, Protected Disclosure Act, 2000 was enacted to protect the whistleblowers against retaliation and policies to be followed to keep the complaints and whistleblower anonymous (Shikha, 2014).

In foreign countries, whistleblowing is considered as an act of heroism where as in India, awareness is still in infant stage. For example, Sherron Watkins of U.S boldly blown the whistle against the accounting irregularities in Enron Corporation. She was lauded in press and received numerous honors. Whereas in India, Satyendra Dubey, blown the whistle against the financial irregularities in the Golden Quadrilateral Project and act of reward for his courage is loss of life (death). So, in India awareness and protection of whistleblowers is crucial (Adithi *et al.*, 2014).

CONCLUSIONS

Whistleblowing is an act of heroism, as he exposes unethical behavior to the society which results in huge amount of satisfaction within him but it may affects his life by diminishing career prospects, personal complications like stress, media entering into their personal life and even sometimes loss of life. So, an individual must be very careful in blowing the whistle. For further study, what can the organizations do to handle whistleblowing issues if the whistle is blown externally, what kind of rewards can be given to the employee to motivate them to blow the whistle internally? Though there are acts and policies, corruption and other wrongdoings are happening silently. What can be done to stop or to reduce these wrongdoings?

In spite of all the consequences, if a Whistleblower blows the whistle more courageously with social concern then really He is a Hero.

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